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Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. VN-2004-2091

PETITION TO REVOKE PROBATION

13 **TONI SONJA CHRISTY**
3701 Ripley Street
14 Sacramento, California 95838

15 **Vocational Nurse License No. VN 79366**

16 Respondent.

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18 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. brings this Petition to Revoke Probation solely
21 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
22 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

23 2. On or about October 1, 1977, the Board issued Vocational Nurse License Number
24 VN 79366 to Toni Sonja Christy ("Respondent"). The license was in effect at all times relevant
25 to the charges brought herein and expired on January 31, 2011.

26 **Prior Discipline**

27 3. On Effective September 13, 2008, pursuant to the Decision and Order adopted by the
28 Board in the disciplinary action entitled In the Matter of the Accusation Against Toni Sonja

Christy, Case No. VN-2004-2091, the Board ordered Respondent's license be revoked. However, the revocation was stayed and Respondent was placed on probation for a period of three (3) years with certain terms and conditions. A copy of the Decision and Order is attached hereto as **Exhibit A** and is incorporated herein by reference.

4. At all times after the effective date of Respondent's probation, Condition 12 stated: "If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, respondent's license will be fully restored."

5. Respondent's probation is subject to revocation, in that she violated probation as set forth below:

FIRST CAUSE TO REVOKE PROBATION

(Failed to Comply with the Probation Program and Quarterly Report Requirements)

6. At all times after the effective date of Respondent's probation, Condition 2 stated: "Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of respondent's compliance with the Probation Program.

"Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation."

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7. Respondent's probation is subject to revocation, in that she failed to comply with Condition 2, referenced above, by failing to file the following quarterly reports:

<u>Reporting Period</u>	<u>Due Date</u>
January – March 2009	April 7, 2009
April – June 2009	July 7, 2009
July – September 2009	October 7, 2009
October – December 2009	January 7, 2010
January – March 2010	April 7, 2010
April – June 2010	July 7, 2010
July – September 2010	October 7, 2010
October – December 2010	January 7, 2011
January – March 2011	April 7, 2011

In addition, Respondent failed to respond to the Board's correspondence dated January 2, 2009.

SECOND CAUSE TO REVOKE PROBATION

(Failed to Notify the Board of Address and Telephone Change)

8. At all times after the effective date of Respondent's probation, Condition 3 stated:

"Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of her new address and any change in her work and/or home telephone numbers."

9. Respondent's probation is subject to revocation, in that she failed to comply with Condition 3, referenced above, by failing to notify the Board, in writing, of a change in her mailing address. Correspondence dated May 14, 2009, was returned to the Board as "Attempted Not Known, Unable to Forward." Certified correspondence dated March 18, 2010, was returned to sender as "Not Deliverable as Addressed, Unable to Forward."

THIRD CAUSE TO REVOKE PROBATION

(Failed to Complete Courses)

10. At all times after the effective date of Respondent's probation, Condition 9 stated:

"Respondent, at her own expense, shall enroll and successfully complete a course(s) substantially related to the violations(s) no later than the end of the first year of probation; or

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1 respondent shall be suspended from practice, until she has enrolled in and has successfully
2 completed the specified coursework.

3 The coursework shall be in addition to that required for license renewal. The Board shall
4 notify respondent of the course content and number of contact hours required. Within thirty (30)
5 days of the Board's written notification of assigned coursework, respondent shall submit a written
6 plan to comply with this requirement. The Board shall approve such plan prior to enrollment in
7 any course of study.

8 Upon successful completion of the course, respondent shall cause the instructor to furnish
9 proof to the Board within thirty (30) days of course completion."

10 11. Respondent's probation is subject to revocation, in that she failed to comply with
11 Condition 9, referenced above, by failing to submit proof of completing the approved courses to
12 satisfy the remedial education assignment within the first year of probation as required.

13 **FOURTH CAUSE TO REVOKE PROBATION**

14 **(Failed to Comply with Cost Recovery Requirements)**

15 12. At all times after the effective date of Respondent's probation, Condition 11 stated:

16 "Pursuant to Business and Professions Code Section 125.3, respondent shall pay \$5,000 to
17 the Board for the costs of investigation and prosecution. Respondent shall be permitted to pay
18 this sum through monthly, semi-annual or annual payments, as determined by the Board or its
19 designee. Respondent shall have the entire probationary period in which to fully pay this amount.
20 Failure to make payments in accordance with any formal agreement entered into with the Board
21 or pursuant to any Decision by the Board shall be considered a violation of probation.

22 The Board may conditionally renew or reinstate, for a maximum of one year, the license of
23 any respondent who demonstrates financial hardship. Respondent shall enter into a formal
24 agreement with the Board to reimburse the unpaid costs within that one year period.

25 Except as provided above, the Board shall not renew or reinstate the license of any
26 respondent who has failed to pay all the costs as directed in a Decision."

27 13. Respondent's probation is subject to revocation, in that she failed to comply with
28 Condition 11, referenced above, by failing to reimburse the Board \$5,000 for the costs associated

1 with the investigation and enforcement of this matter. During her meeting with Board staff, she
2 agreed to make three monthly payments of \$50, thirty-one payments of \$151.56 and a final
3 payment of \$151.64, beginning November 2008. Respondent made one \$50 payment in
4 November 2008, and missed the December 2008 payment, resulting in a Demand for Payment
5 Notice dated December 29, 2008. Respondent made one additional payment in the amount of
6 \$100 on January 12, 2009. Two (2) additional Demand for Payment Notices were mailed to
7 Respondent on March 18, 2009, and May 5, 2009. Respondent failed to respond to the Notices,
8 resulting in her balance of \$4,850 being referred to collections.

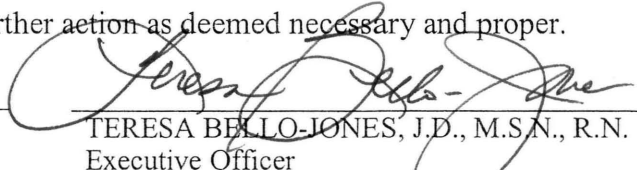
9 **PRAYER**

10 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
12 issue a decision:

13 1. Revoking the probation that was granted by the Board of Vocational Nursing and
14 Psychiatric Technicians in Case No. VN-2004-2091, and reimposing the disciplinary order that
15 was stayed thereby revoking Vocational Nurse License Number VN 79366, issued to Toni Sonja
16 Christy; and,

17 2. Taking such other and further action as deemed necessary and proper.

18 DATED: July 18, 2011.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Vocational Nursing and Psychiatric Technicians Case No. VN-2004-2091

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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2004-2091

TONI SONJA CHRISTY
3701 Ripley Street
Sacramento, CA 95838

OAH No. 2007110387

Vocational Nurse License
No. VN 79366

Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the
Director of the Department of Consumer Affairs¹ as the final Decision in the above-entitled matter.

This Decision shall become effective on **September 13, 2008**.

IT IS SO ORDERED this 14 day of August 2008.



PATRICIA HARRIS
Deputy Director, Board/Bureau Support
Department of Consumer Affairs

¹Pursuant to Business and Professions Code section 101.1(b), on July 1, 2008, the director became vested with the duties, powers, purposes, responsibilities, and jurisdiction of the Board of Vocational Nursing and Psychiatric Technicians.

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2004-2091

TONI SONJA CHRISTY
Sacramento, CA 95838

OAH No. 2007110387

Vocational Nurse License No. VN 79366

Respondent.

PROPOSED DECISION

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on May 22, 2008, in Sacramento, California.

Sterling A. Smith, Deputy Attorney General, represented Teresa Bello-Jones, J.D., M.S.N., R.N. (complainant), Executive Officer, Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, State of California.

Toni Sonja Christy (respondent) appeared on her own behalf.

Evidence was received, the record was closed, and the matter was submitted on May 22, 2008.

FACTUAL FINDINGS

1. Complainant made and filed the Accusation in her official capacity.
2. On October 1, 1977, the Board issued vocational nurse license number VN 79366 to respondent. That license will expire on January 31, 2009, unless renewed.
3. Respondent worked as a licensed vocational nurse at Arden Rehabilitation and Healthcare Center (Arden Rehabilitation) for about nine years, with a break in 2001.

O.F.'s May 10, 2005 Injuries

4. In May 2005, O.F. was a resident at Arden Rehabilitation. He was in his late 80's. Although he had multiple system problems, he was stable and could get around by himself using a wheelchair. He was also very hard of hearing and often confused. During that time period, Wanda Philipps was employed by Arden Rehabilitation as the Director of Nursing and Patsy Gothard was employed as a Certified Nursing Assistant. Both Ms. Philipps and Ms. Gothard took care of O.F. Although Ms. Philipps had not observed O.F. being hostile to staff or other residents, she had seen him become agitated when he did not know what staff was doing. Ms. Philipps would get very close to O.F. and talk loudly in his ear when she gave him instructions, and he would generally understand what she was asking and comply. Both Ms. Philipps and Ms. Gothard had retrieved O.F. from other residents' rooms on multiple occasions.

5. On May 7, 2005, O.F. suffered a jagged skin tear on his right forearm measuring 10 centimeters by two centimeters, and a bruise measuring 10 centimeters by 10 centimeters.

6. A few days prior to May 10, 2005, O.F. was moved from Room 500 to another room. Respondent worked the evening shift at Arden Rehabilitation on May 10, 2005. She observed O.F. wheel himself into Room 500, which was then occupied by another resident who had a Foley catheter. Respondent went into Room 500 and told O.F. that it was not his room. O.F. told respondent that it was his room. Respondent again said that it was not and tried to turn O.F.'s wheelchair around to take him out of the room. O.F. said that it was his room and put his hands on the wheels of his wheelchair to prevent respondent from pushing him out of the room. Respondent tried to remove O.F.'s hands from the wheels. O.F. grabbed respondent's right hand and bit her arm. Respondent took hold of O.F.'s arm in an effort to get her arm out of his mouth. After she pulled free from O.F.'s grip, she wheeled O.F. back to his room.

7. Shortly thereafter, Ms. Gothard returned from dinner and observed a trail of blood on the floor from Room 500 to O.F.'s room. Ms. Gothard saw that the skin on both of O.F.'s wrists was torn. Ms. Gothard asked respondent what had happened, and respondent told her that O.F. had bitten her.

8. That evening, respondent contacted O.F.'s son and Kaiser about treating the injuries that O.F. had suffered. In both the fax she sent to Kaiser and the notes she wrote in O.F.'s chart, respondent described O.F. as having suffered a three centimeter skin tear on his right forearm and a small tear on his hand.¹ Respondent testified that she put three steri strips on O.F.'s forearm and a band-aid on his hand to dress the injuries.

¹ In her chart notes, respondent wrote that the small tear was on O.F.'s right hand. On the fax she sent to Kaiser, respondent wrote that the small tear was on O.F.'s left hand.

9. Ms. Philipps disputed respondent's testimony as to the size of O.F.'s injuries. Ms. Philipps returned to Arden Rehabilitation on May 10, 2005, and observed and dressed O.F.'s arms. On May 11, 2005, Ms. Philipps took photographs of O.F.'s injuries. According to Ms. Philipps, O.F. had significant, bleeding skin tears on both arms. She explained that, while O.F.'s right forearm was injured a few days earlier, that earlier injury was healing, and the bloody tears on O.F.'s arms were new injuries caused during respondent's altercation with him. The copies of the photographs that Ms. Philipps took on May 11, 2005, and Ms. Gothard's testimony supported Ms. Philipps's testimony.

10. Ralyn V. Conner is a licensed registered nurse and an ombudsman with the California Department of Corrections and Rehabilitation. She testified as an expert witness for complainant. According to Ms. Conner, respondent failed to exercise the degree of skill, care and experience ordinarily possessed and exercised by a competent licensed vocational nurse when she tried to remove O.F. from another resident's room. Ms. Conner opined that respondent's actions in failing to call for assistance when O.F. grabbed the wheels of his wheelchair and in struggling with an elderly, confused patient thereby causing tears to his fragile skin were actions inconsistent with the standards of care expected of a licensed vocational nurse, and constituted patient mistreatment. Ms. Conner's testimony was persuasive.

11. At hearing, respondent asserted that she "was only trying to do her job" at the time the incident occurred and that it all happened "in a split second." She apologized for her conduct and asserted that she would never hurt a patient on purpose. She testified that she reacted instinctively when O.F. bit her. O.F.'s bite left teeth marks and a bruise on her arm.

12. Even though respondent may not have intended to injure O.F. and may have reacted instinctively when he bit her, respondent instigated the altercation by failing to exercise patience in dealing with O.F. and using excessive force when trying to remove his hands from his wheelchair. There was no emergency need for respondent to remove O.F. from the other resident's room. Although the other resident had a Foley catheter, there was no evidence to indicate that O.F. posed an immediate danger to that resident. Respondent should have acted with greater restraint or sought assistance from others to help remove O.F. from the room he was in. Respondent's struggle with O.F. caused significant tears in his skin. During that struggle, respondent used force in excess of that which would normally be applied in similar circumstances. Respondent's actions, therefore, constituted unprofessional conduct.

Charting Issues

13. Ms. Conner criticized respondent's notes on O.F.'s chart. On May 9, 2005, at 1900 hours, respondent wrote the following note in O.F.'s chart: "ST [skin tear] on ® [right] FA [forearm] is healing [without] any redness or swelling." According to Ms. Conner,

respondent's note was deficient because it failed to fully describe the injury's size, shape, coloration and measurement.

Ms. Conner also criticized respondent's note in O.F.'s chart on May 10, 2005. In her chart note at 2115 hours, respondent wrote: "Res. was in another res. room and would not come out. I tried to remove him from the room and he grabbed my arm and bit down hard. Res. was removed from the other res. room and res. has a 3 cm ST on his ® ↓FA and a sm. ST on his ® hand. I faxed Kaiser ER for a TX order. I called Kaiser and [O.F.'s son] and left a message." According to Ms. Conner, respondent's note was deficient because it did not include a full description of the injuries O.F. suffered, the orders Kaiser sent, or the treatment she provided to O.F.

Respondent argued that her May 9, 2005 chart note was just a short note about an injury that had been previously described in O.F.'s chart. She admitted that she did not include in her May 10, 2005 chart note all the information described by Ms. Conner. While respondent's chart notes may not have included all the information described by Ms. Conner, complainant did not establish that those notes fell sufficiently below the standard of practice expected of a licensed vocational nurse as to demonstrate incompetence or gross negligence, or to otherwise constitute unprofessional conduct.

Factors in Aggravation – Prior Counseling

14. On May 4, 2005, six days before the incident with O.F., Ms. Philipps gave respondent a Disciplinary Action Notice for failing to respond to a resident's call light for 10 minutes. Respondent told Ms. Philipps that it did not matter that she did not respond to the call light because the resident was "on the light all the time."

15. On May 5, 2005, Ms. Philipps gave respondent a Disciplinary Action Notice for failing to complete the "I & O's" in residents' medical records.² Respondent told Ms. Philipps that if the nurses' aides failed to document that information, she could not write it in the patients' medical records. Ms. Philipps informed respondent that it was her responsibility to see that the nurses' aides got this work done. Respondent told Ms. Philipps that it was not her job.

Factors in Mitigation – Character References and Performance Evaluations

16. Arden Rehabilitation discharged respondent on May 13, 2005, due to the incident with O.F.. Eskaton hired respondent on June 13, 2005. Respondent testified that she told Eskaton about Arden Rehabilitation's reason for discharging her. Her performance evaluation from Eskaton for the period from June 13, 2005, to August 30, 2007, shows that she either met or exceeded all Eskaton's requirements.

² The term "I & O's" stands for intake and output. They are the measurements of the fluids residents take in and expel from their bodies.

17. Respondent submitted written character references from two licensed vocational nurses, two certified nursing assistants, and a licensed vocational charge nurse with whom she works at Eskaton. They praised her as being knowledgeable, competent and courteous.

18. Respondent has been licensed as a vocational nurse for over 30 years. There was no evidence to indicate that she was ever disciplined by the Board before this proceeding. There was also no evidence to indicate that respondent intentionally injured O.F. Instead, the evidence indicated that respondent acted with impatience and unnecessary force when removing O.F. from another resident's room. Although respondent received two disciplinary warnings from Arden Rehabilitation shortly before her interaction with O.F., the nature of those warnings did not indicate that respondent had, in the past, acted with inappropriate force toward any patients in her care. At hearing, complainant recommended that respondent be given a 60-day suspension and placed on three years' probation. The purpose of this disciplinary proceeding is not to punish respondent, but to protect the public. Suspending respondent at this time is not necessary to protect the public. Instead, when all the evidence presented in this case is weighed and balanced, to ensure that respondent's patients will be fully protected in the future, respondent should be placed on probation for three years and ordered to take courses, as determined by the Board, to address the issues raised in this proceeding relating to patient care.

Costs

19. Pursuant to Business and Professions Code section 125.3, complainant submitted a Certification of Costs of Investigation and Prosecution and a Declaration of the Deputy Attorney General, which requests costs in the total amount of \$20,704.50 as follows:

a. Complainant has requested \$6,225 in costs for 34.75 hours of investigative services from the Division of Investigation at \$180 an hour. The Certification does not describe with particularity the investigative services that were performed or the number of hours spent on each investigative service.

b. Complainant has also requested \$14,479.50 in costs for investigative and prosecutorial services provided by the Attorney General's Office (AGO), which includes 85.25 hours of attorney time billed at \$158.00 an hour and 10 hours of paralegal time billed at \$101 an hour. The work performed by the attorneys included reviewing and prioritizing the case upon receipt; organizing and maintaining the file; analyzing the investigative file and exhibits; reviewing documents for authenticity, accuracy and completeness; reviewing laws, regulations and facts to establish violations; becoming informed on the standards of competency and charting for vocational nurses; researching legal issues; evaluating settlement; meeting with and preparing witnesses for hearing; communicating with the client; and preparing the case, declarations and exhibits for hearing. The work performed by the paralegal included pleading preparation.

Respondent objected to the amount of the costs and argued that she would not be able to pay them if her license was revoked or if she were suspended. The reasonableness of the costs and respondent's objections are addressed in Legal Conclusion 6 below.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2875 provides that the Board may discipline a holder of a vocational nurse license for any reason set forth in Article 3 (commencing with Business and Professions Code section 2875) of the Vocational Nursing Practice Act, Business and Professions Code section 2840 et seq.

2. Pursuant to Business and Professions Code section 2878, subdivision (a)(4), the Board may suspend or revoke a vocational nurse license for unprofessional conduct, including the use of "excessive force upon or the mistreatment or abuse of any patient." That subdivision defines "excessive force" to mean "force clearly in excess of that which would normally be applied in similar clinical circumstances." As set forth in Finding 12, respondent used excessive force when she tried to take O.F.'s fingers from the wheels of his wheelchair and remove him from another patient's room. Complainant, therefore, established cause to discipline respondent's license under Business and Professions Code section 2878, subdivision (a)(4).

3. Pursuant to Business and Professions Code section 2878, subdivision (a)(1), the Board may suspend or revoke a vocational nurse license for unprofessional conduct, including incompetence. In *Kearl v. Board of Medical Quality Assurance* (1986) 189 Cal.App.3d 1040, 1054-1055, the court explained the criteria for determining whether conduct constitutes incompetence as follows:

The term "incompetency" generally indicates "an absence of qualification, ability or fitness to perform a prescribed duty or function." (*Pollack v. Kinder* (1978) 85 Cal.App.3d 833, 837.) Incompetency is distinguishable from negligence, in that one "may be competent or capable of performing a given duty but negligent in performing that duty." (*Id.*, at p. 838.) Thus, "a single act of negligence ... may be attributable to remissness in discharging known duties, rather than ... incompetency respecting the proper performance." (*Ibid.*, quoting from *Peters v. Southern Pacific Co.* (1911) 160 Cal. 48, 62 [116 P. 400].) The *Pollack* court concludes: "While it is conceivable that a single act of misconduct under certain circumstances may be sufficient to reveal a *general* lack of ability to perform the licensed duties, thereby supporting a finding of incompetency under the statute, we reject the notion that a single, honest failing in performing those duties--without more--constitutes the

functional equivalent of incompetency justifying statutory sanctions.’ (85 Cal.App.3d at p. 839, italics in original.)

Given the definition of “incompetence” set forth in *Kearl*, it cannot be found that respondent’s single incident of using excessive force (Finding 12) constituted incompetence. Complainant also failed to establish that the notes respondent made in O.F.’s chart demonstrated incompetence. (Finding 13.) Consequently, complainant did not establish cause to discipline respondent under Business and Professions Code section 2878, subdivision (a)(1).

4. Business and Professions Code section 2878, subdivision (a), provides that the Board may suspend or revoke a vocational nurse license for unprofessional conduct “which includes, but is not limited to” the six specific grounds for unprofessional conduct listed in that subdivision. At hearing, complainant argued that respondent’s conduct in this case constituted unprofessional conduct in general, beyond the six listed grounds. Complainant failed, however, to establish that respondent’s conduct constituted unprofessional conduct beyond that already found in Legal Conclusion 2.

5. As set forth in Finding 18, respondent has been a licensed vocational nurse for over 30 years. There was no indication that she had ever been disciplined by the Board before. While respondent’s conduct with respect to O.F. was serious, when all the evidence in this matter is weighed and evaluated, outright revocation of respondent’s license is not required in order to protect the public. Instead, placing respondent on three years’ probation subject to appropriate terms and conditions, including taking courses as ordered by the Board on patient care, is sufficient to adequately protect the public health, interest and welfare.

6. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated the licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee’s subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

As set forth in Finding 19, complainant is seeking \$20,704.50 in costs. Respondent was successful in getting the charges and the penalty in this matter reduced. This case involved one incident of patient mistreatment. The hearing lasted one day. Complainant called only four witnesses. The documentary evidence was not voluminous. Given the limited nature of the allegations and the evidence, the scope of the investigation and the costs of prosecution are excessive. In light of these factors and respondent’s limited ability to pay, costs in the amount of \$5,000 are reasonable and appropriate to be charged against

respondent. Respondent shall be permitted to pay this sum through monthly, semi-annual or annual payments, as determined by the Board or its designee. Respondent shall have the entire probationary period in which to complete payment.

ORDER

Vocational Nurse License Number VN 79366 issued to respondent Toni Sonja Christy is revoked; provided, however, that the revocation is stayed and respondent is placed on probation to the Board for three (3) years upon the following terms and conditions:

1. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprint cards were already submitted by respondent as part of her licensure application process effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph of herself within thirty (30) days of the effective date of the decision.

2. COMPLIANCE WITH PROBATION PROGRAM AND QUARTERLY REPORT REQUIREMENTS. Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of respondent's compliance with the Probation Program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.

3. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S). Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of her new address and any change in her work and/or home telephone numbers.

4. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE. Respondent shall notify the Board, in writing, within five (5) days, if she leaves California to reside or practice in another state.

Respondent shall notify the Board, in writing, within five (5) days, upon her return to California.

The period of probation shall not run during the time respondent is residing or practicing outside California.

5. NOTIFICATION TO EMPLOYER(S). When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify her employer of the probationary status of respondent's license. This notification to respondent's current health care employer shall occur no later than the effective date of the Decision. Respondent shall notify any prospective health care employer of her probationary status with the Board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if she is terminated from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination.

6. INTERVIEWS/MEETINGS WITH BOARD REPRESENTATIVE(S). Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board, or its designated representatives.

7. EMPLOYMENT REQUIREMENTS AND LIMITATIONS. During probation, respondent shall work in her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

8. SUPERVISION REQUIREMENTS. Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to the respondent while employed as a licensed vocational nurse or psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

9. COMPLETION OF EDUCATIONAL COURSE(S). Respondent, at her own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation; or respondent shall be suspended from practice, until she has enrolled in and has successfully completed the specified coursework.

The coursework shall be in addition to that required for license renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. MAINTENANCE OF VALID LICENSE. Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement, respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. COST RECOVERY REQUIREMENTS. Pursuant to Business and Professions Code Section 125.3, respondent shall pay \$5,000 to the Board for the costs of investigation and prosecution. Respondent shall be permitted to pay this sum through monthly, semi-annual or annual payments, as determined by the Board or its designee. Respondent shall have the entire probationary period in which to fully pay this amount. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one year period.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

12. VIOLATION OF PROBATION. If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, respondent's license will be fully restored.

DATED: June 9, 2008



KAREN J. BRANDT
Administrative Law Judge
Office of Administrative Hearings

FILED

AUG 14 2007

**Board of Vocational Nursing
and Psychiatric Technicians**

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Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2004-2091

TONI SONJA CHRISTY
3701 Ripley Street
Sacramento, California 95838
Vocational Nurse License No. VN 79366

A C C U S A T I O N

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

2. On or about October 1, 1977, the Board issued vocational nurse license number VN 79366 to Toni Sonja Christy ("Respondent"). The license will expire on January 31, 2009, unless renewed.

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2. Ordering Toni Sonja Christy to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: August 14, 2007

Fresa Bede -

TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

SA2006102421
Accusation (kdg) 7/26/07